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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
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7 UNITED STATES OF AMERICA,
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9 Plaintiff,
10 v.
11 JUSTIN LEE TRIPP,
12 Defendant.

Case No.: 2:19-mj-00394-NJK

ORDER
(Docket No. 20)

13 On January 9, 2020, Defendant filed a motion advising the Court that he would like to
14 represent himself. Docket No. 19. On January 13, 2020, Defendant's appointed counsel filed a
15 motion for status conference. Docket No. 20. Counsel asks the Court to set a status conference
16 so that the Court may conduct a *Faretta* canvas to determine if Defendant may proceed *pro se* in
17 the instant case. *Id.* Counsel asks the Court to allow Defendant to participate telephonically in
18 the *Faretta* canvas. *Id.* at 2. The Court, however, needs to determine whether Defendant's
19 decision to forgo counsel and defend himself is knowing and intelligent, which includes a
20 determination as to whether Defendant understands the nature of the charges against him, the
21 possible penalties, and the dangers and disadvantages of self-representation. *United States v.*
22 *Erskine*, 355 F.3d 1161, 1167 (9th Cir. 2004). *See also United States v. Hernandez*, 203 F.3d 614,
23 625 n. 16 (9th Cir. 2000) (Court has "fundamental obligation to protect defendant's twin Fifth and
Sixth Amendment rights).

24 The Court cannot meet its fundamental obligation of protecting Defendant's Fifth and Sixth
25 Amendment rights and determining whether his *Faretta* waiver is valid during a telephonic
26 hearing. Rather, the Court finds that the *Faretta* canvas must occur while Defendant is personally
27 present before the Court so that the Court can observe his demeanor and responses in order to
28 ensure that he fully understands the rights he asks to waive.

1 The Court therefore **GRANTS** in part the motion for a status hearing, Docket No. 20, and
2 **SETS** a *Faretta* hearing for January 27, 2020, at 2:00 p.m. Defendant, his current attorney, and
3 the assigned AUSA are required to be present in the courtroom. The assigned AUSA must make
4 the necessary arrangements for Defendant to be personally present at the hearing.

5 IT IS SO ORDERED.

6 DATED: January 15, 2020.

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10 NANCY J. KOPPE
11 UNITED STATES MAGISTRATE JUDGE
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